IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO. 3397 of 2007

DATE OF DECISION: 12.03.2007.

Jaivir Singh and others ....Petitioners.

Versus

State of Haryana and others ....Respondents.

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE S.D. ANAND

PRESENT: Mr.T.P.S. Chawla, Advocate
for the petitioners.

J.S. Khehar, J. (oral)

The State of Haryana enacted the Haryana State Industrial Security Force Act, 2003, so as to enable it to establish the State Industrial Security Force. In furtherance of the aforesaid enactment, the respondents issued an advertisement dated 6.2.2004 and another one dated 24.7.2004. Under the first advertisement, the respondents invited applications for filling up 1400 posts of constables. Under the second advertisement, the respondents invited applications for filling up 1863 posts of constables. The petitioners claim to have participated in the process of selection. They claim that they were subjected to evaluation of physical standards, besides being required to participate in a rigorous process of selection. They claim to have made the grade for appointment against the advertised posts. Consequently, they were medically examined and deputed for training at the Police Training Centre at

Madhuban. Despite the aforesaid, the selection and appointme t of the petitioners came to be annulled. It is, in these circumsta ces, that the petitioners approached this Court by filing CWP No.10311 f 2005. The same was disposed of by an order dated 12.7.2005 with liberty to the petitioners to approach the Government by way of a epresentation for adjustment/re-employment. The petitiones are state to have made representations to the concerned quarters, whereupon an order dated 10.10.2005 (Annexure P9) was passed by the Inspector General of Police-cum-Director, Haryana Police Academy, Madhuban. A perusal of the aforesaid order reveals, that the claim of the petitione s for appointment as constables was declined, inter alia, on the ground th t their induction into service was by way of an irregular recruitment process. This factual position stands noticed as under in the order dated 10.10.2005:-

> " This contention is not tenable as the balance of convenience is in favour of the Govt. and against the representationists. It si stated that the discharged constables of HSISF who were irregularly recruited in a force which was not constituted by the State Government as per the HSISF Act itself have no legitimate claim to be absorbed against the vacancies in Haryana Police. Additionally, the legality and fairness in the recruitment of HSISF constables are under question and the same are being enquired into."

The grievance raised by the petitioners, through the present writ petition, is to the advertisement dated 3.5.2006 (Annexure P8) vide which the respondents are again desirous of holding a fresh process of

selection for appointment against the very posts on which the petitioners came to be selected after having gone through rigors of selection, as have been noticed hereinabove. In sum and substance, the contention of the learned counsel for the petitioners, is that in case the same posts, as were advertised earlier on 6.2.2004 and 24.7.2004, are to be filled up, the petitioners must be given a preferential right of appointment and should not be required to again participate in a process of selection. In this behalf, learned counsel for the petitioner has invited our attention to the decision rendered by the Apex Court in State of Punjab and others V. Harcharan Singh and others (Civil Appeal No.3521 of 2006, decided on 7.2.2007). Learned counsel for the petitioners has invited our attention to the following observations recorded by the Apex Court in the aforesaid judgment:-

> " For the reasons aforesaid, we set aside the impugned order of the Division Bench of the High Court. We are, however of the opinion that since the respondents have been selected by a duly constituted Subordinate Services Selection Board and they could not be appointed because of the ban imposed by the Government, in the fitness of things and in the interest of justice and fair play if the respondents could be accommodated to the posts of Lascars for which they have been duly selected as and when the ban of the Government is relaxed or when the posts are revived. We make it clear that in such event the case of the respondents shall be considered first before calling for the fresh candidates by way of advertisement or otherwise.

With the aforesaid observations the appeal is allowed."

Learned counsel has also invited our attention to a decision rendered by a Single Judge of this Court in Davender Kumar and others V. State and others (CWP No.16376 of 1999, decided on 31.1.2007). From the judgment rendered by this Court in Davender Kumar's case, learned counsel for the petitioners has invited our attention to the following conclusions drawn therein:-

> " It may be that in the year 1999 persons selected by the Haryana Subordinate Services Selection Board as Gram Sachivs could not be appointed as Haryana State had abolished octroi w.e.f. 1.11.1999 and had proposed to absorb the surplus staff working for the octroi in various Municipal Committees, still it is a fact that various writ petitions had been filed in the years 1999 and 2000, which remained pending till this date and by this time, more than 600 posts of Gram Sachivs are available and are to be filled by way of new selection by the Haryana Subordinate Services Selection Board. It cannot at all be said that Gram Sachivs selected by way of duly conducted process in the year 1999, were at fault, in any way. A large number of them had filed writ petitions in this Court, which have remained pending and now time has come when the respondent-State have again proposed to fill up the posts now available, which are more i number than the persons so selected in the year 1999.
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> No defect has been pointed out as far as selection process for the posts of Gram Sachivs in the year 1999, is

concerned."

We have considered the aforesaid contentions of the learned counsel for the petitioners. We, however, find no merit therein. Firstly, a categoric finding was recorded by the Inspector General of Police-cum-Director, Haryana Police Academy, Madhuban, in his order dated 10.10.2005, holding that the process of selection, in which the petitioners had participated, was irregular, and as such, the recruitment was described as irregular. Neither have the petitioners assailed the aforestated finding, nor have they impugned the order dated 10.10.2005.

In view of the above, while disposing of the instant writ petition, we will have to take it that the petitioners' appointment in the earlier processes of selection, held in furtherance of the advertisements dated 6.2.2004 and 24.7.2004, was irregular. That being so, the claim of the petitioners for preferential treatment by relying on the decision rendered by the Apex Court in Harcharan Singh's case (supra) and the decision rendered by this Court in Davender Kumar's case (supra) is wholly misconceived.

Dismissed. Needless to mention, if the petitioners have submitted their applications in response to the advertisement dated 3.5.2006 within the prescribed time, it will be open to the petitioners to participate in the process of selection held in furtherance thereof.

(J.S. Khehar)
Judge

(S.D. Anand)
Judge

March 12, 2007.
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